

Applicant: Richard Gerardus F. Visser et al.
Serial No.: 10/009,876
Filed: May 6, 2002
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REMARKS

Claims 39-50 and 54-58 were pending in the subject application. With this Request for Continued Examination, applicants have requested entry of the Amendment and reply filed on March 21, 2006. The amendments made herein supplement the Amendment filed on March 21, 2006. By this amendment, Claims 44 and 46 have been canceled without prejudice or disclaimer, and Claims 39 and 58 have been amended. Accordingly, upon entry of this Amendment, Claims 39-43, 45, 47-50 and 54-58 will be pending and under examination.

Applicants maintain that the claim amendments do not raise an issue of new matter. Support for the amendment to Claim 39 can be found at least in Claims 44 and 46 and in the application on page 16, lines 10-29, and page 17, lines 31-33. Support for the amendment to Claim 58 can be found at least in Claim 44 and in the application on page 16, lines 10-29. Accordingly, entry of the amendment is respectfully requested.

Rejection under 35 U.S.C. §112, First Paragraph

Claims 39-50 and 54-58 had been rejected under 35 U.S.C. §112, first paragraph, as not enabled. In a telephone call with Examiner Kallis on May 4, 2006, the Examiner indicated to applicants' undersigned attorney that the Examiner had reconsidered and withdrawn this rejection.

Rejections under 35 USC §102(b)

1. Claim 39 and dependent Claims 41 and 44 stand rejected under 35 USC §102(b) as anticipated by Dalmia et al., Biotechnology and Bioengineering, 47: 575-584, 1995, in light of GenBank Accession gi: 143654, April 26, 1993.

In the Advisory Action issued on May 8, 2006, the Examiner indicated that this rejection could be overcome by amending Claim 39 to include features from Claim 46, i.e. amending Claim 39 to recite that the promoter directs expression in a plant to a seed,

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leaf, root, tuber, stem, stalk, fruit, grain, and/or flower of a fusion protein, etc.

Applicants thank the Examiner for the his comments and have herein above amended Claim 39 to incorporate the amendment recommended by the Examiner, thereby obviating this rejection.

2. Claims 39, 42-50, and 54-58 stand rejected under 35 USC §102(b) as anticipated by Kortstee et al., The Plant Journal 10: 83-90, 1996.

In the May 8, 2006 Advisory Action, the Examiner indicated that this rejection could be overcome by amending Claim 39 to include the linker feature from Claim 44. Applicants thank the Examiner for the his comments and have herein above amended both Claim 39 and independent Claim 58 to incorporate the amendment recommended by the Examiner, thereby obviating this rejection.

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CONCLUSIONS

In view of the amendments and remarks made hereinabove, applicants believe that the pending claims are in condition for allowance. If there are any minor matters preventing allowance of the subject application, applicants request that the Examiner telephone the undersigned attorney.

No fee, other than the enclosed \$1,690.00 fee for filing a Request for Continued Examination (\$790.00) and Petition for an Additional Two Month Extension of Time (\$900.00), is deemed necessary in connection with the filing of this response. However, if there are unanticipated fees required to maintain the pendency of this application, the PTO is authorized to withdraw those fees from Deposit Account 01-1785. Overcharges may also be credited to Deposit Account 01-1785.

Respectfully submitted,

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